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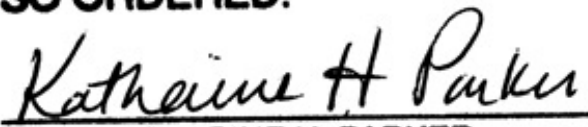
18 Half Mile Road
Armonk, NY 10504

December 7, 2020

Via ECF

Honorable Katharine H. Parker
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

SO ORDERED:


**HON. KATHARINE H. PARKER
UNITED STATES MAGISTRATE JUDGE**

12/08/2020

Re: *Nichols, et al., v. Noom, Inc., et al.*, No. 20 Civ. 3677 (LGS) (KHP)

Dear Judge Parker:

We write jointly on behalf of Plaintiffs and the proposed Class and Defendants Noom, Inc. and Artem Petakov (“Defendants” or “Noom”) in accordance with Your Honor’s Individual Rule § III.d. to request leave to file Exhibit A to Plaintiffs’ Sedona Conference Tracking Chart under seal.

This Exhibit is a copy of Noom’s Legal Preservation Notice, which Defendants have designated “Confidential” pursuant to the operative protective order. Per the Southern District of New York Electronic Case Filing Rules & Instructions § 6.5(a), the parties respectfully submit that the Viewing Level to be applied to said Exhibit should be “Selected Parties”—that is, limited to counsel appearing for Noom and Plaintiffs.

Pursuant to Your Honor’s Individual Rule, Noom’s “particular reasons for seeking to file that information under seal” are as follows: (1) a litigation hold is not likely a “judicial document,” *see Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006); (2) even if it were, the litigation hold is a document passed between the parties in discovery and thus plays no role in the performance of Article III functions and the public’s presumption of access to it is low, *see Bernstein v. Bernstein Litowitz Berger & Grossman LLP*, 814 F.3d 132, 142 (2d Cir. 2016); and (3) Noom has a significant privacy interest in the litigation hold, as this document reflects Noom’s attorneys’ mental impressions regarding the broad categories of information that could conceivably be implicated in this lawsuit; Noom’s attorneys’ specific instructions to employees as to how it should be preserving all potentially relevant information; and the types of internal software and systems that might be used at Noom.

Plaintiffs do not object to Noom’s request that this document be filed under seal.

Thank you for the Court's consideration of this matter.

Respectfully Submitted

/s/ Jessica L. Hunter
Jessica L. Hunter

*Counsel for Plaintiffs and the
Proposed Class*

cc: All Counsel of Record (*Via ECF*)